

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 FEA-01 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-02 INR-07

INT-05 L-02 NSAE-00 NSC-05 OMB-01 PM-03 SAM-01 OES-03

SP-02 SS-15 STR-01 TRSE-00 FRB-03 PA-01 USIA-06

PRS-01 /090 W

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R 130910Z MAR 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 0000

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E.O. 11652: N/A

TAGS: EINV, RP

SUBJECT: PROPOSED REDUCTION IN FOREIGN EQUITY IN NATURAL
RESOURCE EXPLOITATION

REF: MANILA 13581, NOVEMBER 15, 1974

1. THAT THE PHILIPPINE GOVERNMENT HAS NOT ABANDONED ITS INCLINATION, REPORTED REFTEL, TO REDUCE FROM 40 PERCENT TO 30 PERCENT THE ALLOWABLE FOREIGN EQUITY IN CORPORATIONS ENGAGED IN THE EXPLOITATION OF NATURAL RESOURCES WAS DISCLOSED BY MARCH 12 NEWS CONFERENCE OF BOARD OF INVESTMENTS GOVERNOR LANUZA. LANUZA STATED THAT THERE IS STILL NO DEFINITE ADMINISTRATIVE RULING BUT THAT AN INTER-AGENCY GOVERNMENT BODY IS THRESHING OUT THE PROPOSAL TO REDUCE MAXIMUM FOREIGN EQUITY TO 30 PERCENT. HE INDICATED THAT GOVERNMENT AGENCIES ARE IN THE MEANTIME HOLDING UP SEVERAL APPLICATIONS FOR APPROVAL OF INVESTMENTS WITH FOREIGN EQUITY IN THE NATURAL RESOURCE AREA.

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2. LANUZA STATED THAT SOME FOREIGN INVESTORS HAVE

ATTEMPTED TO CIRCUMVENT THE FREEZE ON APPROVALS OF NEW INVESTMENTS EXCEEDING 30 PERCENT FOREIGN EQUITY BY CREATING HOLDING COMPANIES. FOREIGN PARTNER TAKES 30 PERCENT DIRECTLY IN CORPORATION ESTABLISHED TO EXPLOIT NATURAL RESOURCES AND TAKES 40 PERCENT IN FILIPINO CORPORATION ESTABLISHED TO OWN THE REMAINING 70 PERCENT. IN THIS WAY, FOREIGN INVESTOR OBTAINS 58 PERCENT OF TOTAL EQUITY. LANUZA STATED THAT SUCH APPLICATIONS ARE NOT BEING APPROVED.

3. COMMENT: PROBLEM FOR FOREIGN INVESTORS IS THAT PHILIPPINE CORPORATE LAW PROVIDES CERTAIN RIGHTS TO MINORITY OWNERS WITH 40 PERCENT OF EQUITY WHICH ARE NOT AVAILABLE TO MINORITY OWNERS WITH ONLY 30 PERCENT. ISSUE IS ONE OF PROTECTION OF MINORITY RIGHTS, THEREFORE, AND NOT A SIMPLE ONE OF SMALLER VERSUS LARGER FOREIGN MINORITY HOLDINGS. ALTHOUGH LANUZA DID NOT DISCUSS QUESTION OF RETROACTIVITY, HIS STATEMENTS ARE LIKELY TO INTENSIFY CONCERN EXISTING FOREIGN INVESTORS HAVE FELT SINCE CHANGE IN THIS SENSITIVE AREA WAS FIRST PROPOSED.

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Message Attributes

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Margaret P. Grafeld
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